## CASE PROCESSING STANDARDS ANALYSIS FAMILY LAW - PROTECTION ORDER CASES

## **National Center for State Courts Model Time Standards:**

100% of *ex parte* hearing to be held and orders issued in compliance with state law (Intermediate Standard)

90% within 10 days 98% within 30 days

**Measurement:** Filing of initial petition through disposition (entry of judgment)

## Arizona Family Law – Protection Order Cases

The Arizona Case Processing Standards Steering Committee recommends that Arizona adopt its own standard:

Ex Parte Hearing: 99% within 24 hours.

**Measurement:** The date the petition for protective order is filed to the date the protective order is Issued, denied or a pre-issuance hearing is set.

✓ Injunctions Against Harassment and Injunctions Against Workplace Harassment are included.

Contested Hearing: 90% within 10 days 98% within 30 days

**Measurement:** The date the request for hearing is filed to the date the protective order is affirmed, modified or quashed.

Ex parte hearings typically are conducted on the same day the plaintiff files the petition. At the close of the ex parte hearing, regardless of whether the request is granted or denied, the case is completed. However, the law allows the court to schedule a pre-issuance hearing in situations where the judge feels there is inadequate information on which to base the order and wants to hear from both parties. Statute requires pre-issuance hearings to be scheduled within 10 days with reasonable notice to the defendant. As pre-issuance hearings are permitted by state law, Arizona courts should be able to meet the standard for ex parte hearings unless pre-issuance hearings are being scheduled farther out than 10 days.

Arizona's protective order laws are significantly different than those of most other states. First, Arizona law allows the plaintiff up to a year to have the order served on the defendant. Some orders are served immediately, others weeks or months later, and others never. Second, in Arizona, there is no final hearing automatically scheduled at the time the initial order is issued. Most states require both parties to appear in court within a relatively short time (10-15 days) at which time testimony is taken and the court decides whether to keep the order in place for an extended time. Under Arizona law, a second hearing occurs only if the defendant asks for one. The defendant can make this request at any time while the order is in effect. If the defendant does request a hearing, it must be conducted within 5 or 10 days, depending on whether exclusive use of the parties' residence is at issue. With this statutory timetable, Arizona courts should be able to achieve disposition of 98% of its protective order cases within 30 days unless continuances are extended beyond this time period.

1

<b>Arizona Rules and Statutes</b>	Timelines under Statute and Rule
Ex Parte Hearing Rule 6(B), ARPOP <sup>1</sup>	(Measurement Starts Here for Ex Parte Hearing)  Priority for Protective Orders: A judicial officer shall expeditiously schedule an <i>ex parte</i> hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted.
Pre-Issuance Hearing A.R.S. §§ 12-1809(E), 12- 1810(E), 13-3602(F)  Rule 6(C)(7), 6(E)(5), 6(F)(5), ARPOP	Denial of an Order of Protection, Injunction Against Harassment, or Injunction Against Workplace Harassment: If after the <i>ex parte</i> hearing, the judicial officer has insufficient information to grant the order, the judicial officer may deny the request or set a hearing within 10 days with reasonable notice to the defendant.
G 4 AP	(Measurement Stops Here for Ex Parte Hearing)
Service of Process A.R.S. §§ 12-1809(J)-(K), 12-1810(I)-(J), 13-3602(K)-(L) Rule 1(M)(5), ARPOP	<ul> <li>Service: A copy of the petition and the order must be served on the defendant within 1 year from the date the order is signed. An order that is not served on the defendant within one year expires. A modified order is effective on service and expires one year after service of the initial order and petition.</li> <li>Return of Service: Server (private process or law enforcement) has 7 business days to return proof of service to the court.</li> <li>Notice to Sheriff: Court has 24 hours to forward proof of service to the holder of record (usually the county sheriff).</li> </ul>
Hearing A.R.S. § 13-3602(I)  Rule 8(A)(1)(a), 8(A)(1)(b), ARPOP	(Measurement Starts Here for Contested Hearing)  Contested Hearing: At any time during the period during which the order is in effect, a party who is under the protective order is entitled to one hearing on written request. The hearing must be held within 10 days from the date requested unless the court finds good cause to continue the hearing. If exclusive use of the home is awarded, the hearing must be held within 5 days from the date requested.

<sup>&</sup>lt;sup>1</sup> Arizona Rules of Protective Order Procedure

<b>Arizona Rules and Statutes</b>	Timelines under Statute and Rule
Motions Rule 7(A), ARPOP	<b>Dismiss or Quash:</b> A plaintiff may request that a protective order be dismissed or quashed at any time during the term of the order. If the plaintiff and defendant appear jointly on a Motion to Dismiss or Quash, the judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing. If the plaintiff requests that an order be dismissed and the defendant is not present, the judicial officer may take action without notice to the
Rule 7(B), ARPOP	defendant. Within <b>24 hours</b> of the dismissal, the court must notify the sheriff in the county where the order was issued.  Modify: A plaintiff may request that a protective order be modified at any time during the term of the order. The judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing. A motion to modify made after a hearing cannot be granted without setting a hearing and giving notice to the defendant. Within <b>24 hours</b> of service of a modified order, the court must forward a copy of the order and proof of service to the sheriff in the county where the order was originally issued.  (Measurement Stops Here for Contested Hearing)
Orders Rule 1(I)(1)(c), ARPOP	<u>Conflicting</u> : If different judicial officers issue protective orders that grant conflicting relief involving the same parties, these orders shall be set for hearing within <b>5 days</b> after the judicial officers discover the conflict.
Rule 4(A)(4)(a), ARPOP	Transferred between LJ and GJ: Within 24 hours of being notified of a pending family law case, the LJ court shall transfer all case documents to the superior court where the action is pending.
Rule 1(I)(1)(c), ARPOP	<u>Transferred between any courts</u> : The originating court transferring a protective order shall within <b>24 hours</b> notify its sheriff's office in writing of the transfer and update information in that court's protective order repository.

